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7 of Physician Assistants

8  
9 **BEFORE THE ARIZONA REGULATORY BOARD OF**  
10 **PHYSICIAN ASSISTANTS**

11 In the Matter of Application for )  
Licensure of: )

12 **CHERYL J. McGOVERN, P.A.-C** )

13 As a Physician Assistant )  
14 In the State of Arizona. )

Board Case No. PA-04-L101A

**CONSENT AGREEMENT FOR  
ISSUANCE OF LICENSE AND  
LETTER OF REPRIMAND**

15 **RECITALS**

16 On August 25, 2004, the Arizona Regulatory Board of Physician Assistants  
17 ("Board") denied the license application of Cheryl J. McGovern, P.A.-C. ("Applicant"). The  
18 Board determined that the Applicant did not meet the basic requirements for licensure. The  
19 Applicant's professional record indicated that she had engaged in conduct that would  
20 constitute grounds for disciplinary action against a licensee under Arizona law. A.R.S. § 32-  
21 2521(A)(4). That conduct had not been corrected, monitored or resolved and there were no  
22 mitigating circumstances that prevented the resolution of that conduct. A.R.S. § 32-2521(C).

23 On September 23, 2004, Applicant appealed the Board's decision pursuant to A.R.S.  
24 § 41-1092.03. On November 10, 2004, an informal settlement conference was conducted  
25 pursuant to A.R.S. § 41-1092.06. As a result of that settlement conference, the State  
26

1 recommended this consent agreement for the Board's consideration.

2 At its public meeting on March 2, 2005, the Board offered Applicant a license and  
3 a Letter of Reprimand. Applicant accepted the terms of offer and by mutual agreement and  
4 understanding, the parties agree to the following:

5 1. Applicant acknowledges that she has read and understands this Consent  
6 Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent  
7 Agreement"). Applicant understands she has the right to consult with legal counsel  
8 regarding this matter and has done so or chooses not to do so.

9 2. Applicant understands that by entering into this Consent Agreement, she  
10 voluntarily relinquishes any rights to a hearing or judicial review in state or federal court,  
11 or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any  
12 other cause of action related to or arising from this Consent Agreement.

13 3. All admissions made by Applicant are solely for licensure. Therefore, any  
14 admissions by Applicant are not intended or made for any other use, such as another  
15 administrative, civil or criminal proceeding in the State of Arizona or any other state or  
16 federal jurisdiction.

17 4. Although the Executive Director has not issued the Consent Agreement,  
18 Applicant understands that upon signing this Consent Agreement, and returning it to the  
19 Board, she may not revoke her acceptance of this Consent Agreement or make any  
20 modifications to it. Any modifications to this original document are ineffective and void  
21 unless mutually approved by the parties in writing.

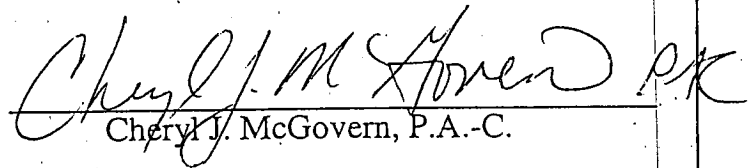
22 5. Applicant understands that this Consent Agreement shall not become effective  
23 unless and until it is adopted by the Board and signed by its Executive Director.

24 6. Applicant understands that if the Board does not adopt this Consent  
25 Agreement, she will not assert as a defense that the Board's consideration of this Consent  
26 Agreement constitutes bias, prejudice, prejudgment or other similar defense.

1        7.       Applicant understands that this Consent Agreement, once approved and  
2 signed, is a public record that may be publicly disseminated as a formal action of the Board,  
3 and shall be reported as required by law to the National Practitioner Data Bank and the  
4 Healthcare Integrity and Protection Data Bank.

5        8.       If any part of this Consent Agreement is later declared void or otherwise  
6 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force  
7 and effect.

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9  
10 DATED: 12/5/04

  
Cheryl J. McGovern, P.A.-C.

11 Reviewed and Approved as to Form:

12  
13 By: \_\_\_\_\_

14  
15 **FINDINGS OF FACT**

16        The parties stipulate that this Consent Agreement represents a compromise of a  
17 disputed matter between the Board and Applicant, and agree to the entry of this Consent  
18 Order as the final disposition of the matters described herein:

19        1.       The Board is the duly constituted authority for licensing and regulating the  
20 physician assistants in the State of Arizona.

21        2.       On or about May 12, 2004, Applicant filed an application for licensure with  
22 the Board.

23        3.       In that application, Applicant was asked the following questions:

24                6.       Have any actions, restrictions, limitations (including probation  
25 or academic probation) been taken while you were participating in any type  
26 of training program or by any health care provider?

16. Have you been counseled regarding your performance or behavior in any training program or by any health care provider?

4. Applicant knowingly and falsely answered "no" to those questions. During her previous employment by a health care provider, Applicant was placed on probation and counseled regarding her performance.

5. However, further investigation by Board staff of that employment situation did not indicate that Applicant had engaged in any acts of unprofessional conduct or presented any kind of threat to public health, safety or welfare.

6. In subsequent applications to other licensing jurisdictions, Applicant truthfully answered questions concerning the employment situation at issue as well as this Board's initial denial of her application for licensure.

7. Other than the false statements on questions 6 and 16 of the application form, Applicant meets the basic requirements for licensure specified in A.R.S. § 32-2521.

8. In an effort to demonstrate to the Board that the act of unprofessional conduct described above has been corrected, monitored and resolved, Applicant has amended her answers to questions 6 and 16 and provided a written narrative explanation concerning the matter.

9. Applicant admits that the above-described conduct constitutes unprofessional conduct in violation of A.R.S. § 32-2501(21)(bb)(knowingly making a false or misleading statement on a form required by the board or in written correspondence or attachments furnished to the board).

## CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter hereof and over Applicant.

2. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-2501(21)(bb)(knowingly making a false or misleading

1 statement on a form required by the board or in written correspondence or attachments  
2 furnished to the board).

3 3. The conduct and circumstances described above constitute grounds to believe  
4 that Applicant does not meet the requirements of A.R.S. § 32-2521(A)(4)(have a profession-  
5 al record that indicates that the applicant has not committed any act or engaged in any  
6 conduct that constitutes grounds for disciplinary action against a licensee pursuant to this  
7 chapter).

8 4. However, the conduct and circumstances described above constitute grounds  
9 for the Board to determine to its satisfaction that Applicant's unprofessional conduct has  
10 been corrected, monitored and resolved. A.R.S. § 32-2521(C).

11 **ORDER**

12 Based upon the foregoing Findings of Fact and Conclusions of Law, and pursuant  
13 to the authority granted to the Board by A.R.S. §§ 32-2501 *et seq.* and 41-1092.07 (F)(5),  
14 IT IS HEREBY ORDERED that:

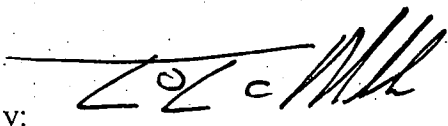
15 1. Applicant shall be issued a license.

16 2. Applicant shall be issued a Letter of Reprimand for knowingly making  
17 a false or misleading statement on a form required by the board or in written  
18 correspondence or attachments furnished to the board.

19 DATED this 4<sup>th</sup> day of March, 2005.

20 ARIZONA REGULATORY BOARD OF  
21 PHYSICIAN ASSISTANTS



23 By:   
24 TIMOTHY C. MILLER, ESQ.  
25 Executive Director  
26

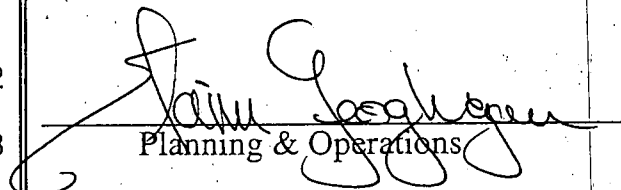
1 ORIGINAL OF THE FOREGOING FILED  
this 7<sup>th</sup> day of March, 2005, with:

2 Arizona Regulatory Board of Physician Assistants  
3 9545 E. Doubletree Ranch Road  
4 Scottsdale, AZ 85258

5 EXECUTED COPY OF THE FOREGOING MAILED  
this 7<sup>th</sup> day of March, 2005, to:

6 Cheryl J. McGovern, P.A.-C  
7 (Address of Record on file with the Board)  
8 Applicant *propria persona*

9 Stephen Wolf, Esq.  
10 Assistant Attorney General  
11 1275 W. Washington, CIV/LES  
12 Phoenix, AZ 85007  
13 Attorneys for the State of Arizona

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15 Planning & Operations  
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